IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 15327 of 2006

DATED: 25-07-2006

Between:

A.S.Narayana
petitioner

And

The Regional Manager,
APSRTC, Guntur Region
Guntur dist and another Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 15327 of 2006

ORAL ORDER:

The present writ petition is filed questioning the proceedings of the 1st respondent No.Steno/19(10)/03-RMG) dated 21.5.2003 insofar as imposing the punishment of reduction of pay of the petitioner by two incremental stages with permanent effect and treating the period from the date of removal till reinstatement into services as "not on duty".

The petitioner is employed in the respondent corporation as conductor. While so, in a check conducted on 28.1.2002 certain cash and ticket irregularities were found against the petitioner and he was issued with a charge sheet dated 6.2.2002. The petitioner submitted his explanation dated 10.2.2002 denying the charges. However, having not satisfied with the explanation offered by the petitioner, an enquiry was ordered. The enquiry officer, after conducting the enquiry, submitted a report dated 6.4.2002 holding the petitioner guilty of the charges alleged against him. A show cause notice of removal from service was issued to the petitioner on 19.4.2002 and after considering his explanation,

final orders dated 15.5.2002 were issued removing the petitioner from service. The appeal filed by the petitioner was rejected by order dated 31.5.2002. Thereafter, the petitioner submitted a review petition to the 1st respondent.

On consideration of the matter, the 1st respondent passed order dated 21.5.2003 setting aside the removal order passed by 2nd respondent and imposed the punishment of reduction of pay by two incremental stages with permanent effect and to treat the period from the date of removal till reinstatement into service as "not on duty". Hence, the present writ petition questioning the order of the 1st respondent insofar as imposing the punishment is concerned.

Learned counsel for petitioner submitted that without considering the statement of a a bonafide CAT card holder, who appeared before the enquiry officer and stated that he has paid only Rs.62/- to the petitioner but not Rs.72/-, the enquiry officer has submitted a report holding petitioner guilty of charge. It is stated that on the date of check, the petitioner was not well and by taking medicines at regular intervals he has performed the subject duty. It is also stated that both the Appellate and Review Authorities failed to consider the fact that there was no cash and ticket irregularities committed by the petitioner and he has a very clean record of service of 25 years in the corporation. Thus, it is contended that imposition of penalty is unjust and sought for interference of this Court.

On the other hand, learned Standing Counsel for respondent corporation submitted that the misconduct alleged against the petitioner was proved in the enquiry and the Review Authority having confirmed the findings of the enquiry, taking a lenient view modified the punishment and ordered for reinstatement by imposing the punishment of reduction of pay by two increments with permanent effect and treating the period from date of removal till reinstatement as "not on duty". It is thus contended that for the proved misconduct, imposition of punishment of reduction of pay and treating the period as not on duty, cannot be said to be illegal or unjust warranting interference of this Court.

Heard the learned counsel for petitioner and learned Standing Counsel for respondent corporation.

After conducting a regular enquiry, the punishment of removal from service was imposed against the petitioner by order dated 15.5.2002, which order was confirmed by the Appellate Authority while rejecting the appeal by order dated 19.2.2003. However, the Review Authority confirming the findings of enquiry, having regard to the personal record, took a lenient view and modified the punishment and ordered for reinstatement by imposing the punishment of reduction of pay by two incremental stage with permanent effect and to treat the interregnum period from the date of removal till reinstatement as "not on duty". Thus, the order of the Review Authority cannot be said as illegal or unjust warranting interference of this Court. Until and unless the writ petition shows any disproportionality in imposing the penalty or it shocks the conscious of the Court this Court cannot exercise its discretion or interfere with the quantum of penalty.

For the foregoing reasons, the petitioner has not made out any case for interference of this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The writ petition fails and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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N.V.RAMANA,J

DATE:25.07.2006

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